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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,581	01/30/2004	Sameer Tannous	CISCO-6600	8579

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SIERRA PATENT GROUP, LTD.
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EXAMINER

JACOBS, LASHONDA T

ART UNIT	PAPER NUMBER
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2157

MAIL DATE	DELIVERY MODE
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11/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/769,581	Applicant(s) TANNOUS, SAMEER	
	Examiner LaShonda T. Jacobs	Art. Unit 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to Applicant's application filed on January 30, 2004.

Claims 1-28 are pending and presented for examination.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims **15-21** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims **15-21** lacks or not limited to (based on intrinsic evidence) physical articles or objects which are structurally and functionally interconnected to the code in such a manner or to establish a statutory category of invention and enable the code to act as a computer component and realize its functionality.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims **1-28** are rejected under 35 U.S.C. 102(e) as being anticipated by Soon et al (hereinafter, "Soon", U.S. Pub. No. 2004/0001443).

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As per claims **1, 8, 15, and 22**, Soon discloses a method, apparatus and computer readable medium for testing a network protocol comprising:

- executing communication between a plurality of devices using said network protocol (paragraphs 0020 and 0031);
- receiving a command to modify one of a plurality of protocols in a protocol stack of said network protocol (paragraphs 0023 and 0031); and
- performing said modification on said one of said plurality of protocols in said protocol stack (paragraphs 0020 and 0031).

As per claims **2, 9, 16 and 23**, Soon discloses:

- wherein said command is received in interpreted code (paragraphs 0031 and 0032).

As per claims **3, 10, 17 and 24**, Soon further discloses:

- determining said one of said plurality of protocols in said stack to modify responsive to receiving said command (paragraphs 0033-0035).

As per claims **4, 11, 18 and 25**, Soon further discloses:

- determining whether said command is adding a message to said one of said plurality of protocols (paragraphs 0023 and 0032-0033); and
- adding said message to said one of said plurality of protocols (paragraphs 0023 and 0032-0033).

As per claims **5, 12, 19 and 26**, Soon further discloses:

- determining whether said command is to remove a message from said one of said plurality of protocols (paragraphs 0023 and 0032-0033); and
- removing said message from said protocol (paragraphs 0023 and 0032-0033).

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As per claims 6, 13, 20 and 27, Soon further discloses:

- determining whether said command is to modify an existing message in said one of said plurality of protocols (paragraphs 0023 and 0032-0033);
- removing said existing message from said one of said plurality of protocols (paragraphs 0023 and 0032-0033); and
- adding a new message to said one of said plurality of protocols including said existing message with modifications in said command (paragraphs 0023 and 0032-0033).

As per claims 7, 14, 21 and 28, Soon further discloses:

- determining whether said command is to modify a state machine of said protocol (paragraphs 0018, 0036, and 0044-0045); and
- modifying said state machine of said one of said plurality of protocols responsive to said command (paragraphs 0018, 0036, and 0044-0045).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pub. No. 2001/0015984 to Lenz et al

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 571-272-4004.

The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LaShonda T Jacobs
Examiner
Art Unit 2157

ltj
November 24, 2007

A handwritten signature in black ink, reading "LaShonda Jacobs", written in a cursive style.